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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,727	03/23/2007	Geoffrey Furneaux	HO-P03292US0	6885
26291 7590 01/12/2012 FULBRIGHT & JAWORSKI, LLP 1301 MCKINNEY SUITE 5100 HOUSTON, TX 77010-3095				
EXAMINER PATTERSON, MARC A				
ART UNIT 1782		PAPER NUMBER		
NOTIFICATION DATE 01/12/2012		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

hoipdocket@fulbright.com

### Office Action Summary

**Application No.**

10/572,727

**Applicant(s)**

FURNEAUX, GEOFFREY

**Examiner**

MARC PATTERSON

**Art Unit**

1782

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 9, 10 and 14-26 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 9, 10 and 14-26 is/are rejected.
- 8) ☒ Claim(s) 26 is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-C100)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

**WITHDRAWN REJECTIONS**

1. The 35 U.S.C. 112 second paragraph rejection of Claims 16 – 21 and 24, of record on page 2 of the previous Action, is withdrawn.

**REPEATED REJECTIONS**

2. The 35 U.S.C. 103(a) rejection of Claims 9 - 10 and 14 – 26 as being unpatentable over Ingraham (U.S. Patent No. 6,893,672) in view of Garcia et al (U.S. Patent No. 5,854,304), of record on page 2 of the previous Action, is repeated.

**NEW REJECTIONS**

***Claim Objections***

3. Claim 26 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claim provides for a replacement step, but does not further limit Claim 22.

**ANSWERS TO APPLICANT'S ARGUMENTS**

4. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 9 - 10 and 14 – 26 as being unpatentable over Ingraham (U.S. Patent No. 6,893,672) in view of Garcia et al (U.S.

Patent No. 5,854,304), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 9 of the remarks dated November 8, 2011, that Ingraham fails to disclose a sealing film having a core of high melting point and surface layer of lower melting point, because the sealing layer of Ingraham is only one layer.

However, because the layer adjacent to the sealing layer is not a sealing layer, the adjacent layer has a higher melting point than the sealing layer. Ingraham is therefore structurally identical to a package comprising a sealing film having a core of high melting point and surface layer of lower melting point.

Applicant also argues on page 9 that Ingraham fails to disclose top, bottom and side edge seams.

However, because the film structure disclosed by Ingraham comprises seven layers, the structure comprises a top layer and adjacent layer, therefore a top seam and adjacent seam, therefore a bottom seam, and side seams.

Applicant also argues on page 9 that there would be no reason for one skilled in the art to bond together one portion of the perimeter of the webs using temperatures higher than 160 degrees Celsius and another portion using temperatures of 100 to 150 degrees Celsius, because it would hinder the seal mechanism.

However, because temperatures higher than 160 degrees Celsius and using to 150 degrees Celsius are within the range of 130 to 200 degrees Celsius, it would have been obvious for one of ordinary skill in the art to seal any portions at temperatures within that range, absent any criticality of the different sealing temperatures.

Applicant also argues, on page 10, that combination with Garcia et al will destroy the function of Ingraham.

However, Garcia et al is cited only for the teaching that compostable packaging well - known to those of ordinary skill in the art.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Marc A Patterson/  
Primary Examiner, Art Unit 1782